The Board is constituted by the Ministry.

श्री सी.एम. इब्राहीम : सर, बोर्ड को गवर्नमेंट ने कंस्टीटयूट किया है लेकिन जितनी कमेटीज़ हैं, सब कमेटीज़, टेक्नीकल कमेटीज़, इनको बोर्ड कंस्टीटयूट करता है । अगर ऑनरेबल मैम्बर को यह लगे कि कमेटी में कोई ऐसा आदमी है जिसके ऊपर कोई अपवाद है तो वे ज़रूर हमें दे दें, हम इस बात को बोर्ड को ज़रूर बताएंगे ।

SHRI MD. SALIM: The point is that the Govemment can give general directions to the Board.

SHRI YERRA NARAYANASWAMY: Sir, Visakhapatnam on the East Coast after Chennai and Calcutta is a developed city having more industries. Many more multi-national industries are also coming up. So, there is every necessity for an international air port there. I would like to know from the hon. Minister whether there is any proposal to set up an intemational airport there, because the Visakhapatnam Port Authority is prepared to give land on long-term basis.

MR- CHAIRMAN: The question is different.

SHRI YERRA NARAYANASWAMY: Sir, it is about MCLR. I want to know whether there is any proposal to set up an international airport there, because the Visakhapatnam Port Authority is prepared to give land.

MR. CHAIRMAN: If the Minister wants to give an answer outside the question, he may, but this question is not relevant.

SHRI SURINDER KUMAR SINGLA: Sir, I would like to know whether the Govemment has enough powers to intervene and issue general directions to the Board what it should do and what it should not do. Secondly, I would like to know whether there is any press report—

I know he is very insensitive to press reports, he does not bother about press reports—which has appeared attributing a statement to the Minister that he would prefer the CBI people to sit in the Purchasing Committee. Is it a fact or not? If it is a fact, then what has he to say in this respect?

SHRI CM. IBRAHIM: Sir, the Govemment have issued some broad guidelines. But as far as various purchases are concerned, we have said that it is within the powers of the Board and the Technical Committee and whatever they decide, we will evolve it and send it to the quarter concerned. But as far as detailing of CBI personnel to the Purchasing Committee is concerned, I do not know about it nor have we said it. But as far as the question of transparency is concerned, we are trying our level best to have an open, transparent policy to maintain transparency in respect of MCLR and other projects.

*142. *[The questioner (Shri Anantray Devshanker Dave) was absent. For answer vide Col. 27 infra]*

* 143. *[The questioner (Shri Amar Singh) was absent. For answer vide Cot. 27 infra]*

Legislation to regulate functioning of private financial companies

*144. PROF. RAM KAPSE: Will the Minister of FINANCE be pleased to state:

(a) whether it is a fact that the public have been duped to the tune of about Rupees one hundred crores by private financial companies;

(b) if so, whether Govemment have finalised the comprehensive legislation to regulate the functioning of private financial companies;

(c) if so, the details thereof; and

(d) when Govemment propose to introduce the legislation in the House?

THE MINISTER OF FINANCE (SHRI P. CHIDAMBARAM): (a) to (d) A statement is laid on the Table of the House.

Statement

(a) Govemment are aware of reports that some of the private finance companies which had accepted deposits from the public by offering very high rates of interest and other incentives had defaulted to return the deposits on maturity to the public.

(b) to (d) With a view to further regulate the activities of the Non-Banking financial Companies and Unincorporated Bodies, Govemment promulgated the Reserve Bank of India (Amendment) Ordinance, 1997 on 9th January, 1997 to further amend the Reserve Bank of India Act, 1934. These amendments provide a number of safeguards for the Non-Banking Financial Companies (NBFCs) so as to lead to their viability. These include compulsory registration of the NBFCs with Reserve Bank of India (RBI), stiuplation of minimum net-owned funds requirement, creation of reserve fund and transfer of certain percentage of profits every year to the fund and prescription of liquidity requirement. RBI has also been vested with powers to issue guidelines encompassing aspects such as income recognition, accounting standards, provision for bad and doubtful debts, capital adequacy etc., which are intended to ensure sound and healthy operations and the quality of assets of these companies. RBI has also been empowered to issue directions to the auditors of NBFCs to order special audit of NBFCs, prohibit acceptance of deposits by NBFCs and to make application for winding up of NBFCs. Whereas earlier the only recourse available to the depositor was to approach the Court of Law for redressal of grievances, powers have been vested with the Company Law Board for directing the defaulting NBFCs to make repayment of the deposits/interest with a view to protect the interests of the depositors.

PROF. RAM KAPSE: Mr. Chairman, Sir, after people were looted by the unscrupulous private financial companies, the Govemment have come out with an Ordinance to protect the public interest. But before the Ordinance was promulgated, the public, especially those in Tamil Nadu, had lost huge amounts. I would like to know whether the Govemment has any estimate of the amount looted by these companies. I welcome the legislation in this direction. But I would also like to know from the Government the way in which the Govemment would help the common man to earn at least a part of the lost amount. I would also like to know as to how the Govemment is going to punish the unscrupulous persons running these companies.

SHRI P. CHIDAMBARAM: Sir, unincorporated bodies are there in a large number of States. It is not as though any particular gross scandal took place after our Government assumed office. In fact, even during the time of the previous Govemment, people had been speaking against unincorporated bodies being allowed to receive deposits offering exorbitant rates of interest. Most of these bodies are in Tamil Nadu. When our Govemment assumed office, the first direction I gave to my Ministry was a law must be made to control these unincorporated bodies. It took us a few months to draft the legislation because there were serious questions about the legislative powers, whether it fell within the power of Parliament or whether it fell within the power of the State Legislature. These quesitons had to be resolved. In the meantime, the Government of Tamil Nadu had also proposed to make an Ordinance and had sought prior permission of the Central Govemment. That had to be examined. After examining the legal aspects, the Government of India promulgated an Ordinance and the Govemment of Tamil Nadu also made another law to set up special courts to deal with anyone who may have cheated the depositors. I believe that I have acted with promptitude. I have no estimate of the amount of loss because that is a matter which falls under the jurisdiction of the State Govemment. They have made a law to set up a special tribunal or a special court. Cases have been filed against a large number of unincorporated in Tamil Nadu. I am sure that the State Government would protect the interests of the depositors. This law is now to be replaced by a Bill. The bill is going to be introduced in the Parliament in this session. When the Bill comes up, surely, I would take into account the views of the hon. Member. If any modifications are to be made, we can make those modifications also. But the Bill is coming up for debate in the next few days.

PROF. RAM KAPSE: Mr. Chairman, the Ordinance has already been promulgated and it had its effect on other areas also. This was done with a good intention and many of the sections are definitely welcome. But the Government has decided that nobody outside the corporate sector should be able to collect money from any person and that has created havoc among the business community. The Ministry must have got the information about the reaction of the Indian business community. I would like to know what is the reaction of the Government to the reaction shown by the business community, especially in Rajasthan.

SHRI P. CHIDAMBARAM: Mr. Chairman, Sir, the hon. Member is referring to section 45 (s) of the Ordinance. It was not the intention of the Government to prohibit either individual traders or individual businessmen from taking deposits for their own business. This has been clarified by the Reserve Bank of India in a press note issued last week An official amendment is being introduced and when the Bill is introduced to replace the Ordinance, we would put this position beyond doubt. As such nobody has been affected because the provisions really come into effect only from the 1st April, 1997. So, well before that, when we replace the Bill, we would have this section amended in a manner that this is put beyond doubt. It was not the intention of the Government, but apparently some people are reading that section in that manner. I understand that there could be some ambiguity. We will clarify that.

SHRI ASHOK MITRA: Mr. Chairman, Sir, it is not just in Tamil Nadu but even outside Tamil Nadu unincorporated bodies operate. I should say these have been allowed to operate by the Ministry of Finance in the past and it has led to the loss of not just hundred crores of rupees, but thousands of. crores of rupees on the part of poor contributors. I am sorry to state that in some instances such companies were allowed to flourish on the dispensation of the Reserve Bank of India and the Ministry of Finance. Specific provisions, laws and rules were withdrawn by the Ministry or by the Reserve Bank of India, under whose instructions we do not know. This has enabled many of these companies to flourish for years unending. I would request the Finance Minister— for the sake of the nation's health and prosperity in financial matters— whether he would be willing to undertake an investigation into the circumstances which had prompted this kind of exemption of rules to be enforced.

SHRI P. CHIDAMBARAM: Mr. Chairman, Sir, I don't agree with the assessment of the hon. Member. I have great respect for him. Unincorporated bodies are not within the legislative powers of Parliament in the sense that the hon. Member thinks they should be. Parliament's powers as well as the State Legislatures' power are set out in the Constitution. As I understand the Constitution, Entry 43 and Entry 44 of List I circumscribe the powers of Parliament. It is the State Governments, according to me, which should act with dispatch if they found that unincorporated bodies were indulging in this practice, Were cheating innocent depositors.

Be that as it may. The bon. Member referred to many; many years in the past. How can I answer for what happened in the past? At least for some time, the hon. Member himself was part of the Finance Ministry. I can only speak for the action taken by our Govemment. As I said, I had spoken even during the time of the previous Government against this practice. When our Govemment assumed office, I have taken action to make this law.

We have had to balance the powers of the State Legislatures and Parliament in making the law. It is quite possible that even this law may be challenged. We will defend it. I am confident of defending it.

Now, what kind of an investigation can I order into all the unincorporated bodies all over the country which have cheated people? 'Unincorporated bodies' means what? *(Interruption)* It is not a firm. It is not a partnership. It is not a company. It is just some individuals getting together and forming an unincorporated body. Now, some four individuals could come together and set up a financial company. Later on, three of them can get out of the firm and form another financial company. How do you legislate and regulate? It is a very ticklish area.

We will try this legislation. I am going to seek the advice of this House and the other House in making the legislation as foolproof as possible.

Now, as far as the question of cheating is concerned, wherever it has taken place, that falls under the Indian Penal Code. The State of Tamil Nadu has made a law to deal with the offences of cheating, breach of trust, misappropriation, etc. These are all common law offences. The State of Tamil Nadu has made a law. They have taken powers to attach properties. They have taken powers to arrest persons. They have taken powers to try such people specially. If the other States also feel that way, if they find that there is such a rampant evil in their States, they should also make such a law. In fact, Sir, I read in the newspapers that the Karnataka Minister has said that he would look into the Tamil Nadu legislation and try to see whether they could also have such a law. Similarly, if the other States also feel that this evil is there in their States, they should make such a law and should take action against those who have been cheating innocent depositors

My jurisdiction, I believe, is to make a law which would regulate the business of taking of deposits. We have prohibited unincorporated bodies excepting, of course, a class of people whom we did not intend to prohibit, in regard to which we will be making a clarification in section 45 S.

SHRI ASHOK MITRA: Sir, if the hon. Minister allows me just one minute, I would specifically refer to a certain date when the rule which was framed by the Reserve Bank of India was withdrawn, which enabled a private limited financial company to pile up thousands of crores. I can send him the particulars. But the hon. Minister himself is as well aware of these particulars as I am. Anyway, I will send him the particulars.

SHRI P. CHIDAMBARAM : Give me the year, at least.

SHRI ASHOK MITRA: I will send it to you right now.

SHRI P. CHIDAMBARAM: Why can't you tell us the year? What is the mystery?

SHRI ASHOK MITRA: I have to check up whether it is August 19 or August 21.

SHRI P. CHIDAMBARAM: Of which year?

SHRI ASHOK MITRA: 1973 or 1974.

SHRI P. CHIDAMBARAM: Sir, the hon. Member is talking about 1973. *(Interruptions)*

SHRI ASHOK MITRA: The point is, somebody, somewhere, would have to find out as to how things went wrong with this nation. If you do not want to investigate into the past, you would continue to repeat those errors.

SHRI P. CHIDAMBARAM: The hon. Member if referring to a date in 1973. Certainly, I would investigate. I would even search the archives.

MR. CHAIRMAN: Dr. Ishwar Chandra Gupta. *(Interruptions)* Some new Members also should get a chance to put questions.

श्री ईश्वर चन्द्र गुप्ता : मान्यवर, मेरे प्रश्न के दो भाग हैं । इस आर्डिनेन्स में यह प्रावधान है कि कोई भी कारपोरेट बाडी जिसकी शेयर कैपिटल 50 लाख से कम है वह हायर परचेज और लीजिंग बिजनेस होते हुए भी डिपॉजिट एक्सेप्ट नही कर सकती । क्या सरकार की यह मंशा है कि जो छोटी कंपनियां है जो कारपोरेट बाडीज भी हैं वे छोटे-छोटे टी.वी, रेडियो और एयर कंडीशंड आदि के लिए डिपॉजिट एक्सेप्ट करती हैं और वे इस बिजिनेस में है, अगर उनका 50 लाख से कम का कैपिटल होता तो क्या वे डिपॉजिट एक्सेप्ट नही करेंगी? तो क्या उनकी मंशा है कि इस तरह की छोटी हायर परचेज लीजिंग कम्पनियों को खत्म किया जाए?

मेरे प्रश्न का दूसरा भाग यह है कि इसमें रजिस्ट्रेशन कम्पलसरी किया गया है । जिस दिन से यह आर्डिनेंस जारी हुआ है, जनवरी से, उस दिन से आज तक कितनी अप्लीकेशन्स रिजर्व बैंक में दाखिल हुई है और उनमें से कितनों का निपटारण हुआ है? मेरी जानकारी के अनुसार हजारों की संख्या में हायर परचेज और लीजिंग कम्पनियों ने अप्लीकेशन्स दी है लेकिन उनके निस्तारण की संख्या नगण्य है । मैं जानना चाहता हूं कि कितनी अप्लीकेशन्स आई हैं और रिजर्व बैंक ने कितनों का निपटारण किया है?

SHRI P. CHIDAMBARAM: Sir, if the hon. Member is referring to the same provision which the hon. Member, Prof. Ram Kapse, referred to, namely, Section 45 (s), this Section would be amended and the intentions would be clarified. But, if he is referring to any other

section, my suggestion is, since a Bill is coming before this House, there is no need to spend time in discussing each section. When a Bill comes, we can discuss it. Any suggestion that he makes, I will take that into account. If any amendment has to be moved, I will move that amendment. Sir, no purpose will be served in discussing it section by section. But the intention is, let me make that clear, that non-banking financial companies must have a certain level of net owned funds; the intention is they must be registered; the intention is they must fall under other prudential norms laid down by the Reserve Bank of India. If they do not have the level of net owned funds, if they are not registered, if they do not observe prudential norms, they will not be allowed to accept deposits from the public. That is the intention.

डा0 ईश्वर चन्द्र गुप्ता : कितनी अप्लीकेशन्स का निपटारण हुआ?

SHRI P. CHIDAMBARAM: They have three months to apply. The Ordinance was issued only on the 9th January. Therefore, once the three months' period is over, we will know how many applications have been made.

SHRIMATI RENUKA CHOWDHURY: Sir, I seek your permission to speak from here. The Ministers are illegally occupying my seat, all three men who have absolutely no grace. Sir, I would like to know from the hon. Minister: How does he plan to incorporate in a legislation the fact that private funding agencies, financial companies and Registrars are working in a nexus to jeopardise a company that is going public? Quite often complainants and petitioners come to us. They say that the Registrars are working in a nexus with financial agencies. They don't lend money in time and force industries to take recourse to borrowing at phenomenal interest rates. There is no way by which he can bring this into legislation. They are doing it. Financial agencies have taken over industries like this. There are a large number of individuals who are operating this way. Along with them, there are credit rating agencies which mercifully have now come under some sort of jurisdiction. But earlier credit rating agencies also reacted to this. The money already sanctioned by lending agencies like banks, etc. is not given in time and this forces industries to go into debt. How does the Minister plan to compute it?

SHRI P. CHIDAMBARAM: Sir, frankly speaking, I do not understand the thrust of the question. This law deals with non-banking financial companies. They are defined. All that I am saying is, if you are a non-banking financial company and you are engaged in the business of accepting deposits and lending money, you will have to come under the control of the Reserve Bank of India. We are also saying that all other unincorporated bodies shall not accept deposits any more. I think the hon. Member is referring to some problems relating to banks and credit. It does not arise out of this question.

SHRIMATI RENUKA CHOWDHURY: Sir, NBFCs also borrow money. It is not that NBFCs work in isolation and they don't borrow money. NBFCs are not just lending agencies. They are also operating.

SHRI P. CHIDAMBARAM: Sir, NBFCs today are governed by Chapter 3 of the Reserve
Bank of India Act. NBFCs take deposits and lend money. Now what is the problem with NBFCs ...

SHRIMATI RENUKA CHOWDHURY: NBFCs do not lend their own money. In fact, NBFCs pledge their shares to other companies, which they are not entitled to, and borrow money against those shares. This is illegal. This has happened to NBFCs. They have sanctioned in principle licences to bank operators. They are operating in this way.

SHRI P. CHIDAMBARAM: I don't think this arises out of this question.

SHRIMATI RENUKA CHOWDHURY: I will address it separately.

SHRI P. CHIDAMBARAM: If my learned hon. Member has any specific question about any malpractice committed by any specific NBFC, she would put a separate question ...*(Interruptions)*...

SHRIMATI RENUKA CHOWDHURY: It comes under the purview of this question... *(Interruptions)*...

SHRI R.K. KUMAR: Sir, as regards the unincorporated bodies, I appreciate the effort made

by the hon. Finance Minister and also the Tamil Nadu State Govemment in this respect. We are both from Tamil Nadu. There are thousands of middle-class families who have lost their money. The local police arrests the proprietors and partners and seizes their assets. I would like to know from the hon. Finance Minister whether he can help these poor depositors in getting back at least, a part of their money. The second part of my question is: This problem is not solved by merely incorporating a finance company. I know for certain that there are 7000 incorporated companies doing business in finance in Tamil Nadu. Out of these, only 4,500 companies file their returns with the Reserve Bank of India's Non-Banking Finance Companies Department. Out of this, only 600 are being inspected every year. I would like to ask him whether the inspection machinery would be strengthened. There is no adequate staff with the Non-Banking Finance Companies Department of the Reserve Bank of India. These are my two questions.

SHRI P. CHIDAMBARAM: I have already made it clear that it falls within the jurisdiction of the State Govemment. The State Government of Tamil Nadu — the State Legislature — has made a law. I have seen that law. That law empowers the State Government to attach property, to arrest persons and try them before a special court. I think the State Govemment must take action. The Central Government cannot tread into a path reserved for the State Government, The crimes that are alleged against these companies are cheating, misappropriation and breach of trust. They all fall under the State jurisdiction. The State must take action. There is a provision to attach property. Property of a large number of companies in Tamil Nadu, of a large number of incorporated bodies in Tamil Nadu have been attached. As regards the second question, yes, I agree that there has not been effective regulation of NBFCs. There are a large nutnber of NBFCs. Prudential norms have not been laid down. Regulations have been ineffective. That is why, at my instance, we have made this law and we are going to strengthen the NBFC Department of the Reserve Bank of India in order to ensure more effective regulation of NBFCs.

Proposal to invest Pension/Provident Funds in Safe Securities

* 145. SHRI VEDPRAKASH P. GOYAL: SHRI SOM PAL:

Will the Minister of FINANCE be pleased to state:

(a) whether Govemment propose to invest pension and provident funds in safe declared securities to buoy-up capital market;

(b) if so, whether acceptance of this proposal has been obtained from bodies controlling these funds; and

(c) the total amount Govemment expect to invest from these funds and the anticipated benefits to the employees?

THE MINISTER OF FINANCE (SHRI P. CHIDAMBARAM): (a) to (c) A statement is laid on the Table of the House.

Statement

(a) and (b) Based on the proposals made by the Central Board of Trustees of the Employees Provident Fund Organisation, and the announcement by the Finance Minister Speech for 1997-98, it has been decided to amend the investment pattern for the non-Government Provident/Superannuation/Gratuity Funds w.e.f. 1.4.1997. The funds will be free to invest the 20% of incremental accretions, now required to be deposited in the Special Deposit Scheme, under the remaining three categories viz:

(i) Central Government Securities;
(ii) State Government Securities or securities guaranteed by Central Government or any State Government; and
(iii) Bonds/Securities of PSUs/Public Financial Institutions/certificate of deposits of Nationalised Banks.

(c) It is for the funds to invest as per the pattern prescribed by the Government. It is not possible at this stage to estimate the incremental amount that would be diverted from the Special Deposit Scheme to the other categories as the rate of contribution is also being increased from 1.3.1997. The proposed amendment in the